

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

TROY RAY EMANUEL JR.,
Plaintiff,
v.
MORDA, *et al.*,
Defendants.

Case No. 2:24-cv-01356-RFB-BNW

ORDER

Before the Court for consideration is Plaintiff Troy Ray Emanuel, Jr.’s (ECF No. 9) Motion for a Temporary Restraining Order (“TRO”) and (ECF No. 10) Motion for Appointment of Counsel. For the following reasons, the Court denies the Motion for TRO without prejudice, and grants the Motion for Appointment of Counsel.

I. PROCEDURAL BACKGROUND

On July 23, 2024, Plaintiff, *pro se* and incarcerated, filed a Motion for Leave to Proceed *in forma pauperis* and attached Complaint. ECF No. 1. On August 1, 2024, Plaintiff filed a Motion for a TRO. ECF No. 3. On September 11, 2024, this Court screened Plaintiff's Complaint and granted Plaintiff leave to file an amended complaint curing the deficiencies described in the Screening Order. ECF No. 4. The Court also denied Plaintiff's Motion for TRO, which sought emergency release from prison, as not narrowly drawn to correct his alleged harm. *Id.*

On September 17, 2025, Plaintiff filed a Motion for Appointment of Counsel. ECF No. 6. On September 19, 2025, Plaintiff filed his First Amended Complaint (“FAC”). ECF No. 7. On April 14, 2025, the Court screened the FAC, and allowed Plaintiff’s first claim for Eighth

1 Amendment excessive force and second claim for Eighth Amendment deliberate indifference to a
 2 serious medical need to proceed. ECF No. 8. The Court denied his Motion for Appointment of
 3 Counsel without prejudice. Id. The Court further stayed this action for 90 days to allow the parties
 4 to engage in the inmate mediation program. Id. A mediation is scheduled for June 27, 2025. ECF
 5 No. 13.

6 On April 25, 2025, Plaintiff filed a second Motion for TRO. ECF No. 9. The same day he
 7 filed a second Motion for Appointment of Counsel. ECF No. 10. He also filed a Reply in support
 8 of the Motion for TRO, despite no opposition being filed. ECF No. 14. The Court's Order on both
 9 pending Motions follows.

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11 **II. LEGAL STANDARDS**

12 *Pro se* pleadings must be liberally construed. Balistreri v. Pacifica Police Dep't, 901 F.2d
 13 696, 699 (9th Cir. 1990).

14

A. Motion for TRO

15 Temporary restraining orders are governed by the same standard applicable to preliminary
 16 injunctions. See Stuhlbarg Intern. Sales Co. v. John D. Brush and Co., 240 F.3d 832, 839 n.7 (9th
 17 Cir. 2001). Preliminary injunctive relief, whether temporary or permanent, is an “extraordinary
 18 remedy, never awarded as of right.” Winter v. Natural Res. Defense Council, 555 U.S. 7, 24
 19 (2008). “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on
 20 the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the
 21 balance of equities tips in his favor, and that an injunction is in the public interest.” Am. Trucking
 22 Ass'ns, Inc. v. City of Los Angeles, 559 F.3d 1046, 1052 (9th Cir. 2009) (quoting Winter, 555
 23 U.S. at 20). Furthermore, under the Prison Litigation Reform Act, preliminary injunctive relief
 24 must be “narrowly drawn,” must “extend no further than necessary to correct the harm,” and must
 25 be “the least intrusive means necessary to correct the harm.” 18 U.S.C. § 3626(a)(2).

26

B. Motion for Appointment of Counsel

27 A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983
 28 civil rights claims. Storseth v. Spellman, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to 28

1 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford
 2 counsel.” However, the court will appoint counsel for indigent civil litigants only in “exceptional
 3 circumstances.” Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When
 4 determining whether ‘exceptional circumstances’ exist, a court must consider “the likelihood of
 5 success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light
 6 of the complexity of the legal issues involved.” Id. “Neither of these considerations is dispositive
 7 and instead must be viewed together.” Id.

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9 **III. DISCUSSION**

10 **A. Motion for TRO**

11 Having reviewed Plaintiff’s Motion for TRO, the Court finds it is deficient for the
 12 following reasons.

13 **1. Irreparable Harm**

14 The Court finds Plaintiff fails to demonstrate, beyond conclusory allegations unsupported
 15 by specific facts, that he is at immediate risk of suffering irreparable harm. “Speculative injury
 16 does not constitute irreparable injury sufficient to warrant granting a preliminary injunction. A
 17 plaintiff must do more than merely allege imminent harm . . . a plaintiff must demonstrate
 18 immediate threatened injury as a prerequisite to preliminary injunctive relief.” Caribbean Marine
 19 Servs. Co., Inc. v. Baldrige, 844 F.2d 668, 674 (9th Cir. 1988).

20 This case arises from the alleged excessive use of force against Plaintiff by prison officials
 21 at High Desert State Prison (HDSP), which caused him injury, for which he alleges he has not
 22 received treatment. In the operative Complaint and the instant Motion for TRO, Plaintiff refers to
 23 incidents which occurred while he was incarcerated at Ely State Prison (ESP), and his allegations
 24 in other lawsuits related to those incidents, which led to his transfer from ESP to HDSP. He further
 25 claims unnamed officers are trying to kill him, trying to make him mad, and not giving him his
 26 property. These are broad, conclusory allegations that are unsupported by specific facts. This Court
 27 cannot credit Plaintiff’s claim that he is in danger without immediate intervention in the absence
 28 of specific facts identifying the HDSP officers he believes are trying to kill him, the specific acts

1 those HDSP (not ESP) officers have taken since he initiated this lawsuit that support his claim they
 2 are trying to kill him, the specific property being kept from him, and why that property is necessary
 3 to avoid an immediate and irreparable threatened injury.

4 In sum, to obtain preliminary injunctive relief, Plaintiff must provide this Court sufficient
 5 evidence to show "he is likely to suffer irreparable harm before a decision on the merits can be
 6 rendered." Boardman v. Pac. Seafood Grp., 822 F.3d 1011, 1023 (9th Cir. 2016) (citing Winter,
 7 555 U.S. at 22). Although the Court construes Plaintiff's Motion liberally, the Court finds
 8 Plaintiff's broad, conclusory allegations are insufficient to warrant the extraordinary remedy of
 9 preliminary injunctive relief.

10 **2. Relief Requested**

11 In his Motion, Plaintiff only requests a hearing and a ruling in his favor, but no specific
 12 relief that could remedy the harms he complains of. Importantly, any relief this Court can grant
 13 must be "the least intrusive means necessary to correct the harm." 18 U.S.C. 3626(a)(2).

14 Further, for a court to grant injunctive relief, there must be a sufficient connection between
 15 the claims raised in a motion and the claims set forth in the underlying complaint itself. Pac.
 16 Radiation Oncology, LLC v. Queen's Med. Ctr., 810 F.3d 631, 636 (9th Cir. 2015). The
 17 relationship between the preliminary injunction and the underlying complaint is sufficiently strong
 18 where the preliminary injunction would grant relief of the same character as that which may be
 19 granted finally. Id. Therefore, this Court is limited to remedying violations of the Eighth
 20 Amendment that are related to Plaintiff's claims for excessive force and deliberate indifference to
 21 medical need which have occurred during his incarceration at HDSP, as described in this Court's
 22 April 14, 2025 (ECF No. 8) Screening Order. See Wright v. Rushen, 642 F.2d 1129, 1132 (9th
 23 Cir. 1981) (federal courts are limited to intervening in the operation of state prisons only to "correct
 24 those conditions necessary to eliminate the type of treatment condemned by the Eighth
 25 Amendment").

26 Because Plaintiff's Motion for TRO does not identify a threatened immediate and
 27 irreparable injury with specific factual allegations, nor does it request specific relief that this Court
 28 has the authority to grant, the Court denies the Motion without prejudice.

1 **B. Motion for Appointment of Counsel**

2 Plaintiff's Motion for Appointment of Counsel states that there are officers involved in the
 3 alleged Eighth Amendment violations underlying his case who have not been identified, and who
 4 he cannot identify without the assistance of an attorney. The Court further takes judicial notice of
 5 his case Emanuel v. Cooke, et al., 3:23-cv-00564-MMD-CSD, which led to his transfer from ESP
 6 to HDSP. Under the circumstances, the Court finds referral of this case to the Pro Bono Program is
 7 warranted. The Court refers this case to the Pro Bono Program for the purposes of screening for
 8 financial eligibility (if necessary) and identifying counsel willing to be appointed as pro bono
 9 counsel for Plaintiff Troy Emanuel, Jr. The scope of appointment is for all purposes.

10 **C. Failure to Sign Motions**

11 Finally, the Court notes Plaintiff has failed to sign his latest Motions in his name. ECF Nos.
 12 9-10. Plaintiff must personally sign every filing he submits to this Court. See Fed. R. Civ. P. 11(a).
 13 The Court will not consider any future unsigned filings and may strike them from the docket. Id.

15 **IV. CONCLUSION**

16 For the foregoing reasons, **IT IS ORDERED** that Plaintiff's (ECF No. 9) Motion for a
 17 Temporary Restraining Order ("TRO") is **DENIED** without prejudice.

18 **IT IS FURTHER ORDERED** that Plaintiff's (ECF No. 10) Motion for Appointment of
 19 Counsel is **GRANTED**. The Clerk of Court is directed to forward this Order to the Pro Bono
 20 Liaison.

22 **DATED:** May 28, 2025.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE